IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 2586 of 1999

Between:

Singhvi Chemical Industries Ltd., Public Ltd, Co. having its registered Office at 57/D, Bally Gunj, Circular Road, Calcutta, rep. by its Director
Sri G.M. Singhvi, S/o. late D. M. Singhvi, 62 years, R/o. Calcutta.

..... PETITIONER

AND

1 The State of A.P., rep.bu its Principal Secretary to the Govt. Revenue Department, Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner of Industries, Govt. of A.P. Abids, Hyderabad.
3 The Special Officer and Competent Authority, Urban Land Ceilings, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus:- (i) to declare the action of the 3rd respondent in rejecting the revision petition filed by the petitioner company Vide Memo.No. 37404/UC.III(2)/98-3, Dt. 6.10.1998 as arbitrary, illegal, unsustainable and violative of Articles 14, 19 (i) (9) and 300 A of the Constitution of India, (ii) consequently direct the 3rd respondent to consider grant of exemption in respect of Land admeasuring 4,819 Sq.Mts., in S.No.63/3 of Kapparada Village, Visakhapatnam District in accordance with Section 20 (i) (a) & (B) of the Urban and Land Ceiling & Registration Act, 1976.

Counsel for the Petitioner: MR.NOOTY RAMA MOHAN RAO

Counsel for the Respondents: GP FOR LAND REVENUE

The Court made the following :

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2586 OF 1999

ORDER:

M/s.Singhvi Chemical Industries, Kolkata, filed the writ petition seeking a writ of mandamus declaring the action of the first respondent in rejecting the revision petition filed by the petitioner vide Memo No.37404/UC.III(2)/98-3 dated 06.10.1998 as arbitrary, illegal and violative of Articles 14, 19(1) and 300-A of the Constitution of India and for a consequential direction directing the third respondent to consider grant of exemption in respect of the land admeasuring 4,819 square metres comprised in Survey No.63/3 of Kapparada village, Visakhapatnam District in accordance with Section 20(1)(a) and (b) of Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity).

The petitioner is a Company registered under the Companies Act, 1956, having its registered office at Bally Gunj, Circular Road, Kolkata. The petitioner acquired industrial sheds known as Bone Mill, Ice Factory, Iron Foundry in industrial Estate, Kapparada village, Visakhapatnam Rural for establishing its industries. After obtaining permission under Sections 26 and 27 of the Act from the third respondent, the land in Survey No.63/3 admeasuring 14,165 square metres was purchased under the sale deed dated 07.09.1990. The petitioner, thereafter, filed a declaration under Section 6(1) of the Act. The third respondent processed the declaration of the petitioner and by order dated 12.02.1981 determined the petitioner to be a surplus holder of 4,819 square metres.

The petitioner made an application to the first respondent on 23.03.1981 seeking exemption under Section 20(1)(a) of the Act. According to the petitioner, the second respondent, namely, the Commissioner of Industries recommended to the Government to exempt the excess land held by the petitioner. Be that as it is, the first respondent by order dated 24.10.1991 rejected the request of the petitioner for exemption on the ground that the petitioner leased out surplus land to M/s.V.V.S.Iron Works. Not satisfied with the orders of the Government, the petitioner filed a writ petition being W.P.No.15952 of 1998. This Court by order dated 15.06.1998 disposed of the said writ petition directing the Government to pass appropriate orders within a period of four weeks. According to the petitioner, thereafter, the Government passed impugned order on 06.10.1998.

The third respondent filed elaborate counter affidavit denying the contentions raised by the petitioner. It is, however, not necessary to refer to the same in detail. Suffice to say that the application made by the petitioner for exemption under Section 20(1)(a) of the Act in 1981 was rejected by Memo No.306/UC.III.81 dated 24.10.1991. The petitioner filed a review petition, which was also rejected by Memo No.4503 dated 16.12.1993. It is also stated that after receiving notice under Section 10(5) of the Act on 10.01.1994 directing the petitioner to handover the surplus vacant land, the possession was handed over to the Mandal Revenue Inspector on 01.03.1996 and that the land was allotted to M/s.G.C.C.Limited by the District Level Assignment Committee on 25.02.1997, pending finalisatin by State Level Assignment Committee. At that stage, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that the first respondent rejected the application of the petitioner for review without application of mind and without giving reasons and therefore is unsustainable. Secondly, he would urge that the exercise of power by the Government in dealing with the application of the petitioner is not in accordance with Section 20 of the Act. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignment) submits that the Government considered the request of the petitioner for grant of exemption on three occasions and on all the three occasions, the Government came to conclusion that the petitioner's case does not fall within Section 20 of the Act.

With the assistance of learned counsel, this Court has thoroughly perused the impugned order dated 06.10.1998. The same would reveal that after the third respondent determined the petitioner to be surplus holder of 4,819 square metres, the petitioner made application for exemption. The same was rejected by the Government on 24.10.1991 and subsequently on 16.12.1993. Again the petitioner made application by way of review petition on 14.06.1994 and submitted further applications on 09.09.1994 and 18.09.1995. The Government considered the same in consultation with the second respondent and rejected the review petition observing that there are no merits in the review petition filed by the petitioner and that the request for reconsideration of the earlier orders is rejected. Further, as stated in the counter affidavit, the land was taken possession from the petitioner company and was handed over to G.C.C.Limited in 1997 itself. Therefore, I do not see any grave error apparent on the face of record requiring judicial review. The Government has considered the request of the petitioner for exemption under Section 20(1)(a) of the Act not once, but thrice and merely because a surplus landholder makes repeated applications by way of revision petitions/review petitions, the same would not change the situation especially when the Government already rejected the same holding that no hardship is caused to the petitioner.

Insofar as the submission of the learned counsel for the petitioner is concerned that the impugned order is bad for non-disclosure of reasons, the issue is no more *res integra.* While rejecting the application for exemption under Section 20 of the Act, law does not require the Government to record and communicate the reasons to the applicant. However, as held by the Supreme Court in **T.R.Thandur v Union of India**, when the Government exempts the surplus vacant land under the provisions of Section 20 of the Act, the Government has to record its reasons for

grant of such exemption. In **Sri Sarvaraya Sugars Limited v Government of A.P.,** I considered the question whether the Government in law is required to give reasons while rejecting the application under Section 20 of the Act. After referring to the decisions of Supreme Court in **S.N.Mukherjee v Union of India**, **Union of India v E.G.Nambudiri** and **T.R.Thandur v Union of India** (supra), I held that while rejecting an application for exemption under Section 20 of the Act, there is no requirement to communicate reasons to the applicant. Paragraphs 11 and 12 of the said judgment are relevant and read as under:

> Needless to point out that under Section 20(1)(a) of the Act an applicant is not entitled to know the reasons for rejection and there is no obligation on the part of the first respondent to communicate reasons. Even otherwise, after perusing the impugned order, I am satisfied that the same discloses sufficient reasons when the Government said that they see no reason to comply with the request to grant exemption under Section 20(1)(a) of the Act. Be it noted that Section 20 of the Act, as held in BHEEMA SINGH, itself contains sufficient guidelines for granting exemption and the same would be sufficient reason.

In T.R. Thandur's case (supra) on which reliance is placed by the learned counsel for the petitioner, the question as to whether the Government can arbitrarily exercise the power under Section 20(1)(a) of the Act while granting exemption even though the applicant has not made out any case for exemption under the said provisions was dealt with. In that context the Supreme Court held that while granting exemption, there should be sufficient reasons for the Government to exercise the power under the Act having regard to the purpose for which the Act was enacted. The Supreme Court ruled thus:

> Clause (a) of sub-section (1) of Section 20 empowers the State Government to grant the exemption if it is satisfied having regard to the relevant factors specified in the clause that it is necessary or expedient to grant the exemption in the 'public interest' subject to the conditions specified in the order. Clause (a) specifies certain relevant factors for the purpose of grant of exemption, namely, "location of such land, "the purpose for which such land is being or is proposed to be used' and such other relevant factors as the circumstances of the case may require. Apart from the location of the excess vacant land and the purpose of its use, regard must be had to the other relevant factors, which is a question of fact in each case. However, these factors must indicate that the grant of exemption under Clause (a) is necessary or expedient in the "public interest" has a legal connotation. The broad guidelines for grant of exemption under Clause (a) are enacted in the provision A safeguard is provided by requiring conditions to be specified in the order to which the exemption is granted under Clause (a). Even though there is no proviso in Clause (a) of the kind enacted thereafter in Clause (b), yet the absence of such a proviso is inconsequential since the requirement of the expressly enacted proviso in Clause (b) is implicit in the manner of exercise of the power under Clause (a). The requirement in Clause (a) of making an order having regard to the specified relevant circumstances and specifying conditions attached to the exemption, ensures that the decision is reached for cogent reasons which are placed on record in writing culminating in the making of the written order. There is no scope for the view that exemption can be granted under Clause (a) by an order specifying the conditions having regard to the specified relevant factors without recording the reasons for doing so in writing. **Every State action must satisfy the rule of non-arbitrariness and, therefore, recording of reasons in writing for granting the exemption under Clause (a) indicating that it is necessary or expedient in the public interest so to do, is an essential requirement of valid exercise of power under Clause (a). This is how Clause (a) must be construed and understood.**

(emphasis supplied)

In the result, for the above reasons, the writ petition must be held as devoid of merit and is accordingly dismissed.

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(V.V.S.RAO,J)

23.08.2004.

pln

To

1. The Principal Secretary to Government, The State of A.P., Revenue Department, Secretariat buildings, Saifabad, Hyderabad.

2. The Commissioner of Industries, Government of A.P., Abids, Hyderabad.

3. The Special Officer and Competent Authority, Urban Land Ceilings, Visakhapatnam.

4. 2 CCs to the G.P. for Land Revenue, High Court Buildings,

Hyderabad (OUT).

5. 2 CD copies.

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